

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

IN RE:

Clarence E. Brown Jr.

Mortgage Electronic Registration Systems, Inc.

VS.

Clarence E. Brown Jr.

CHAPTER 13
CASE NO. 06-10722

MOTION FOR RELIEF FROM STAY AND MEMORANDUM IN SUPPORT THEREOF

To the Honorable Arthur N. Votolato:

Mortgage Electronic Registration Systems, Inc., your moving party in the within Motion, respectfully represents:

1. The movant has a mailing address of c/o EMC Mortgage Corporation, P.O. Box 141358, Irving, TX 75014-1358.
2. The debtor, Clarence E. Brown Jr., has a mailing address of 22 Ravenswood Avenue, Providence, RI 02908.
3. On July 19, 2006, the debtor filed a petition under Chapter 13 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Rhode Island.
4. The movant is the holder as nominee of a first mortgage on real estate in the original amount of \$210,400.00 given by Clarence E. Brown Jr. and Nicole Lepre to Mortgage Electronic Registration Systems, Inc. on or about February 14, 2005. Said mortgage is recorded with the Records of Land Evidence in the City of Providence at Book 7130, Page 263 and covers the premises located at 22 Ravenswood Avenue, Providence, RI 02908.
5. Said mortgage secures a note given by Clarence E. Brown Jr. and Nicole Lepre to Quicken Loans, Inc. in the original amount of \$210,400.00.

6. As of April 25, 2007, approximately \$233,303.78 in principal, interest, late fees and other charges was due with regard to the note and mortgage.

7. There are the following encumbrances on the property:

<u>Name of Creditor</u>	<u>Type of Lien</u>	<u>Amount Owed</u>
Mortgage Electronic Registration Systems, Inc.	First Mortgage	\$233,303.78
Sovereign Bank	Second Mortgage	\$ 55,000.00
Total Secured Encumbrances:		\$288,303.78

8. The pre-petition arrearage is \$21,593.33.

9. According to the debtor's schedules, the fair market value of the subject property is \$263,000.00.

9. The debtor has no equity in the property.

10. The debtor has failed to remain current with the post-petition payments to Mortgage Electronic Registration Systems, Inc..

11. The loan is in default for the February 1, 2007 post-petition payment and all payments thereafter.

12. The total post-petition arrearage due as of May 3, 2007 is \$6,286.04, plus reasonable attorney's fees and costs.

13. The property is not necessary for a successful reorganization of the debtor.

14. The movant seeks relief from stay as a secured creditor to enforce its rights under its loan documents and applicable law. In support thereof, the movant states that it is entitled to relief as follows:

I. Pursuant to 11 U.S.C. 362 (d)(1) for cause on the basis that the debtor has not made post petition payments, and that the debtor has failed to provide the plaintiff with

adequate protection; and

II. Pursuant to 11 U.S.C. 362 (d)(2) on the basis that the debtor has no equity in the subject property and the property is not necessary for effective reorganization.

WHEREFORE, the movant prays that it, and its successors and/or assigns, be granted relief from the automatic stay for the purpose of: (i) exercising its rights under its agreements with the debtor and under applicable law, including, without limitation, taking possession of the mortgaged premises and/or foreclosing or accepting a deed in lieu of foreclosure of its mortgage on said premises, and bringing such actions, including, without limitation, eviction proceedings, as are permissible by law; and (ii) the Court waive the provisions of F.R.B.P. 4001 (a)(3); and (iii) the Court order such other and further relief as may be just and proper.

Respectfully submitted,

Mortgage Electronic Registration Systems, Inc.,
By its Attorney

/s/ Andrew S. Harmon

Andrew S. Harmon, Esquire
RI #5699
HARMON LAW OFFICES, P.C.
P.O. Box 610389
Newton Highlands, MA 02461-0389
617-558-0500

Dated: May 4, 2007

Within ten (10) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 528-4477. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

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CERTIFICATE OF SERVICE

I, Andrew S. Harmon, Esquire, state that on May 4, 2007, I electronically filed the foregoing Motion for Relief from Stay and Proposed Order with the United States Bankruptcy Court for the District of Rhode Island using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

John Boyajian, Chapter 13 Trustee
Leonard DePasquale, Esquire
C. Vincent Fay, Esquire

I certify that I have mailed by first class mail, postage prepaid the documents electronically filed with the Court on the following non CM/ECF participants:

/s/ Andrew S. Harmon

Andrew S. Harmon, Esquire
RI# 5699

Clarence E. Brown Jr.
22 Ravenswood Avenue
Providence, RI 02908

Nicole Lepre
22 Ravenswood Avenue
Providence, RI 02908

Sovereign Bank
P.O. Box 798
Shillington, PA 19607

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